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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,435	06/20/2005	Laurent Tremel	GRYN 225-US (10506320)	6802
24972 7590 06/09/2009 FULBRIGHT & JAWORSKI, LLP 666 FIFTH AVE NEW YORK, NY 10103-3198			EXAMINER RADA, ALEX P	
			ART UNIT 3714	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,435	<b>Applicant(s)</b> TREMEL ET AL.	
	<b>Examiner</b> ALEX P. RADA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 27-52 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-29, 34-42 and 47-52 is/are rejected.
- 7) ☒ Claim(s) 30-33 and 43-46 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/20/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Response to Preliminary Amendment***

In response to the preliminary amendment filed 20 June 2005 wherein applicant cancels claims 1-26, amends the specification, adds new claims 27-52 and claims 27-52 are pending in this application.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 33 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 33 recites the limitation "said actuators" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 46 recites the limitation "said actuators" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 27-29 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmuir et al. (US 5,638,522) in view of Young et al. (US 7,264,207).

Regarding claims 27 and 40, Dunsmuir et al. (hereafter Dunsmuir) discloses a system comprising: a processing unit for parameterizing a mobile vehicle based on a mobility strategy selected ahead of time or in real time by an operator (col. 17, line 54 - col. 18, line 11; wherein the changes to the system can be controlled in real-time); and a transmitter for transmitting control instructions in accordance with the selected mobility strategy chosen (figures 1, 11-22 and abstract; wherein the transmitter shown), the control instructions comprising instructions relating to the mobile vehicle's speed and a guide lane to be used by the mobile vehicle (abstract and figures 1 and 11-22). Dunsmuir is silent in regards to the mobile vehicle comprises a selection means for selecting a guide lane as the mobile vehicle moves around the continuous track based on the control instructions received by the mobile vehicle.

Regarding claims 28 and 41, Dunsmuir discloses wherein the mobility strategy comprises one of the following parameters: a type of mobile vehicle, a type of driving, types and/or quantities of resources available, a speed parameter and a lane change parameter (figure 12; wherein a speed parameter is shown).

Regarding claims 29 and 42, Dunsmuir discloses a control element for entering data and/or macro commands into a memory area located in the mobile vehicle, the memory area being associated with a microcontroller that controls the actuators (figures 10-13).

Young et al. (hereafter Young) teaches a system for piloting a mobile vehicle wherein mobile vehicle has a controller and transmitter for receiving a user's control command to determining which track the toy mobile device should on, which is considered to be similar to the selection

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means. By having a selection means, one of ordinary skill in the art would provide an automated route generation for automatic and semi-automatic control for track guided toy vehicles.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Dunsmuir to include a selection means as taught by Young provide an automated route generation for automatic and semi-automatic control for track guided toy vehicles.

7. Claims 34-37 and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmuir et al. (US 5,638,522) in view of Young et al. (US 7,264,207) as applied to claims 27 and 40 above, and further in view of Koenig (US 6,908,066).

Dunsmuir in view of Young disclose the claimed invention but is silent in regards to claims 34 and 47, discloses wherein the mobile vehicle comprises a guide element that cooperates with the guide lanes, the guide lanes being interconnected by switches; and a transmitter for transmitting a guide signal to a switch receiver associated with a switch, the switch receiver being disposed on the guide circuit or the continuous track; wherein the switch receiver comprises a decoder for decoding the guide signal to generate a control signal for the switch; wherein the switch comprises a moving element having at least two positions and actuated by the control signal, thereby permitting the mobile vehicle to select the guide lane based on the mobility strategy as the mobile vehicle moves around the continuous track

Regarding claims 34 and 47, Koenig teaches wherein the mobile vehicle comprises a guide element that cooperates with the guide lanes, the guide lanes being interconnected by switches; and a transmitter for transmitting a guide signal to a switch receiver associated with a switch, the switch receiver being disposed on the guide circuit or the continuous track; wherein the switch receiver comprises a decoder for decoding the guide signal to generate a control signal for the switch;

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wherein the switch comprises a moving element having at least two positions and actuated by the control signal, thereby permitting the mobile vehicle to select the guide lane based on the mobility strategy as the mobile vehicle moves around the continuous track (col. 11, line 60 – col. 12, line 31). By having guiding elements that cooperate with guide lanes being interconnected with switches, one of ordinary skill in the art would provide an automatic or semiautomatic control of model railways and trains that are more realistic and true to the original.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Dunsmuir to include guiding elements that cooperated with guide lanes being interconnected with switch as taught by Koenig to provide an automatic or semiautomatic control of model railways and trains that are more realistic and true to the original.

Regarding claims 35 and 48, Koenig discloses wherein the switch receiver being disposed ahead of the switch on the guide circuit or the continuous track such that a change in the position of the moving element of the switch produces a change in the movement for only mobile vehicle that first actuated the switch (col. 11, line 60 – col. 12, line 31).

Regarding claims 36-37 and 49-50, Koenig discloses wherein the switch is operable to automatically switch to a predetermined state after the passage of a mobile vehicle that actuated the switch (col. 11, line 60 – col. 12, line 31; wherein it is understood that the switches used in Koenig are capable of automatically switch to a predetermined state from an initial state).

8. Claims 38-39 and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmuir et al. (US 5,638,522) in view of Young et al. (US 7,264,207) as applied to claims 27 and 40 above, and further in view of Smith et al. (US 6,109,186).

Dunsmuir in view of Young disclose the claimed invention as discussed above but is silent in regards to a label reader, integral with the continuous track, for detecting a label associated with the

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mobile vehicle; and a processing unit, associated with the label reader, for determining the number of laps completed by the mobile vehicle.

Smith teaches interactive system having sensors on the track to determine the number of laps each of the vehicle take during the course of a session. By having a lap counter, one of ordinary skill in the art would provide a system that can detect the activities of each of the vehicles on the track to monitor their performance during each lap.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Dunsmuir to further include a label reader, integral with the continuous track, for detecting a label associated with the mobile vehicle; and a processing unit, associated with the label reader, for determining the number of laps completed by the mobile vehicle as taught by Smith to provide a system that can detect the activities of each of the vehicles on the track to monitor their performance during each lap.

***Allowable Subject Matter***

9. Claims 30-32 and 43-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 33 and 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Thursday, 09:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. R./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714